

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA, . Case No. 07-mj-0860  
Complainant, .  
vs. . New York, New York  
JOSEPH TRICARIO, .  
Defendant. .  
. . . . .

TRANSCRIPT OF PRESENTMENT AND DETENTION HEARING  
BEFORE THE HONORABLE FRANK MAAS  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: Eric J. Snyder, Esq.  
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Audio Operator: Electronically Recorded  
by Court Personnel

Transcription Company: Rand Transcript Service  
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1 (Proceedings commence.)

2 THE CLERK: United States v. Joseph Tricario.

3 Counsel, state your name for the record.

4 MR. SNYDER: For the Government, Your Honor, Eric  
5 Snyder. And present at counsel table with me is Special Agent  
6 Michael Kastner (phonetic) of the FBI. Good evening, Your  
7 Honor.

8 THE COURT: Good evening.

9 MR. TWEEN: Good evening, Your Honor. Douglas Tween  
10 from Baker & McKenzie as CJA counsel on behalf of Joseph  
11 Tricario.

12 THE COURT: And is there a financial affidavit?

13 MR. TWEEN: There is, Your Honor.

14 (Pause in proceedings.)

15 THE COURT: Mr. Tricario, this afternoon I'm going to  
16 advise you of your rights. I'm going to inform you of the  
17 charges against you. I'll decide whether you need to have  
18 counsel appointed to represent you and whether there are  
19 conditions under which you can be released.

20 You have the right to remain silent and are not  
21 required to make any statements. Even if you have made  
22 statements to the authorities, you need not make any further  
23 statements, and anything that you do say can be used against  
24 you.

25 You also have the right to be released either with

1 conditions or without conditions pending a trial of this case,  
2 unless I find that there are no conditions that would  
3 reasonably assure both your presence in court and the safety of  
4 the community.

5 Last, you have the right to be represented by counsel  
6 during all court proceedings, including this one, and during  
7 any questioning by the authorities.

8 I see you have filled out a financial affidavit.  
9 Would you stand and raise your right hand, sir?

10 Do you swear that the information in your financial  
11 affidavit is true and correct, and that this is your signature  
12 at the bottom?

13 THE DEFENDANT: Yes.

14 THE COURT: Have a seat.

15 I will direct that Mr. Tween be appointed to represent  
16 you, sir.

17 You've been charged in a one-count complaint with  
18 having violated Title 18, United States Code, Section 894, by  
19 conspiring together with others to use extortion as a means to  
20 collect or attempt to collect credit, and to punish a person  
21 for the non-repayment of such extensions of credit; namely,  
22 threatening somebody with physical violence if they didn't pay  
23 -- repay a loan or other debt. That's a crime which carries  
24 with it a number of potential sanctions, including jail time.

25 The complaint indicates that there was a threat made

1 Saturday at 8:30 in the morning. Was that the approximate date  
2 and time of arrest?

3 MR. SNYDER: Your Honor, it was this morning at  
4 approximately 4:50 a.m., in front of his house on Long Island.

5 THE COURT: Thank you.

6 Mr. Tween, have you seen the complaint?

7 MR. TWEEN: I have, Your Honor. I have read the  
8 complaint, and I have had an opportunity to confirm that my  
9 client, in fact, has also read the complaint, and we have  
10 discussed it. He's represented to me that he understands the  
11 complaint and has no questions.

12 THE COURT: Thank you.

13 With respect to this charge, Mr. Tricario, you're  
14 entitled to a preliminary hearing at which the Government will  
15 have the burden of establishing that there's probable cause to  
16 believe that the crime charged was committed, and that you're  
17 one of the people who committed the crime. If probable cause  
18 is not established, you'll be released from this charge, but if  
19 it is established, the Government then will have the right to  
20 proceed to trial against you.

21 If, at the end of this evening's proceeding, you're in  
22 jail, you have a right to have that hearing held within ten  
23 days. But if I release you on bail, it need only be held  
24 within twenty days. There will, however, be no preliminary  
25 hearing if, before the date for which it's scheduled, either

1 the Grand Jury returns an indictment against you, or the United  
2 States Attorney files a criminal information against you.

3 What's the Government's position regarding bail?

4 MR. SNYDER: The Government seeks detention, Your  
5 Honor.

6 THE COURT: Mr. Tween.

7 MR. TWEEN: Your Honor, the defense would concur with  
8 the recommendation of pretrial services and seek to offer a  
9 package.

10 THE COURT: Okay. I'll hear from Mr. Snyder first.

11 MR. SNYDER: Your Honor, there's a bit of history  
12 here, and I guess I'll start as early as I need to.

13 There is another defendant that was arrested; the  
14 person's name was Charlie Salzano. He's referred to in the  
15 complaint as "Charlie Brown," which is what the victim knew him  
16 as, and he was first presented on a very similar complaint --

17 THE COURT: Right.

18 MR. SNYDER: -- back in December -- I think it was  
19 December 1, 2006. He was thereafter indicted into a RICO, and  
20 has since pled guilty. He was detained on the complaint and  
21 stayed in jail; he pled guilty on April 19th, for this very  
22 offense, including -- well, he pled guilty to this extortion --

23 THE COURT: But I take it he was charged with things  
24 that went beyond this.

25 MR. SNYDER: Well, not much more, Your Honor. There

1 were two criminal acts: One which is here, and that is this  
2 loansharking to Victim 1, who's a taxi business owner; and it  
3 could be charged then as an extortion when they try to collect  
4 the money by the means they do, and it can be charged also as  
5 the collection of an extortion of a loansharking debt by  
6 extortionate means. He was charged with that set of crimes.

7 It was also a RICO because the other predicate was a  
8 smaller extortion of about a total of \$40,000 from some  
9 brothers that ran a gambling operation. That's Charlie  
10 Salzano.

11 THE COURT: Right.

12 MR. SNYDER: To be clear, Mr. Tricario was not, that  
13 we know of, involved in that smaller extortion of the gambling  
14 brothers, but I expect that when this is presented to a Grand  
15 Jury, they will vote at least an indictment similar to one that  
16 was returned today -- or it was sealed, and it was unsealed  
17 today before Judge Kaplan, as to a man named Danny Leo. Now  
18 that's also relevant.

19 Danny Leo was detained today by Judge Kaplan on an  
20 indictment containing four counts; three of those counts for  
21 this particular loansharking, collection of a loansharking  
22 debt, and extortion, for this act; this victim, these acts by  
23 Mr. Tricario and Mr. Salzano, on behalf of Danny Leo, who we  
24 will prove is the acting boss of the Genovese Crime Family;  
25 that's Danny Leo.

1           Salzano is a primary lieutenant to Danny Leo, the  
2 acting boss and a soldier. And he's now, obviously,  
3 incarcerated after his plea. Salzano was the immediate  
4 supervisor of Mr. Tricario. The victim described Mr. Tricario  
5 as "the muscle." So what you have before you is "the muscle"  
6 for the soldier of the largest, most violent organized crime  
7 family in New York or in the country: The Genovese Crime  
8 Family. That's the sort of history to it.

9           He's charged a complaint that was signed, I believe  
10 yesterday or last night. We haven't presented this to the  
11 Grand Jury. We can do so -- it depends on when he wants to  
12 waive to -- immediately. All the evidence is before them  
13 already, quite frankly, and it would just be submitting an  
14 indictment for their consideration.

15           Danny Leo, the boss, was detained today, and Salzano  
16 was detained previously. I have the detention order from the  
17 Salzano detention; it's Judge Kaplan. I have it here, if you'd  
18 like me to hand it up. I also have the minutes or the  
19 transcript of the argument, if Your Honor wishes to consider  
20 that, as well, and I can hand that up. At the same time, I'm  
21 going to hand up two transcripts that I'll describe for you,  
22 for your consideration.

23           Your Honor, this involved a business owner who  
24 borrowed --

25           THE COURT: I take it you've given copies to Mr.

1 Tween.

2 MR. SNYDER: I've given him copies of the transcripts,  
3 which he's agreed to return because they are drafts, and he has  
4 agreed not to use them against us at trial. We didn't have a  
5 stipulation for him to sign here today. And I made available  
6 or showed him the detention order. And I do have a marked-up  
7 version of the transcripts; if he'd like to have that in front  
8 of him, that's fine. I'll just ask he give that back, as well.

9 Your Honor, this business owner borrowed three  
10 loansharking loans, \$50,000 each, a number of years back, at  
11 three points, which is three percentage points per week --

12 THE COURT: Right.

13 MR. SNYDER: -- which meant that he was paying \$1,500  
14 a week or -- sometimes the math gets a little bizarre -- it's  
15 about \$1,500 a week, I understand, just in interest. Over the  
16 course of several years, he paid back approximately \$200,000,  
17 but still owed at least \$100,000 on the principal.

18 THE COURT: Right.

19 MR. SNYDER: Over the course of 2006, he began  
20 receiving -- or he had always been in touch and receiving some  
21 phone calls to get this money out of it, but Joseph Tricario,  
22 the defendant, was the one who would make the calls to the  
23 victim and set up times when they were going to come and see  
24 him to imply or actually express threats, and that became  
25 escalating over time.



1           We didn't record the many early meetings between  
2           Tricario and the victim, nor did we record the early meetings  
3           between Salzano, Tricario, and the victim. But as the threat  
4           level escalated, we did -- we were able to place a recording  
5           device on the victim and let him go forward with -- what we had  
6           were two meetings, and that's what you're looking at: October  
7           7th and October 28th. Those were not only audio-recorded by  
8           the victim in what's quite clear recordings of both Tricario  
9           and Salzano talking; they were video-recorded, as well, and at  
10          least this agent here at the table, as well as others, were  
11          close by with visual surveillance of the meetings.

12           At each of these meetings, Mr. Tricario would go in to  
13          the business of this victim and pull him out to bring him  
14          around the corner, to meet with the defendant's boss, Charlie  
15          Salzano, the made man, the soldier. And he would ask him  
16          questions like, how much you got today. And you'll see in, I  
17          think the October 7th one, the tax owner replies, "I got a  
18          thousand." And then reflected on the transcript as "UM" --  
19          these were made a long time ago, Your Honor --

20           THE COURT: Uh-huh.

21           MR. SNYDER: -- the victim -- I mean Tricario, the  
22          defendant, says, "I'll tell you right now, he's going to  
23          fucking snap," referring to Soldier Charlie Salzano, who was  
24          waiting in a car around the corner.

25           In another meeting, not one that's recorded, I'm told

1 that the victim was asked by Tricario, are you wearing a wire;  
2 an interesting enough question for the defendant to ask the  
3 victim.

4 You'll see that there's other -- other conversations -  
5 - or other statements by Mr. Tricario and ...

6 (Counsel confers.)

7 MR. SNYDER: And that was in the October 7th  
8 recording. In addition to the beginning portions on Page 2, he  
9 sort of backs up his boss when the victim is pleading, you  
10 know, for more time. He says, "He's right" -- meaning Soldier  
11 Salzano -- "it's going on for months now." And this is all in  
12 an effort to get him out of -- get him to pay more money.

13 Then on the next page, Page 3, toward the top, three  
14 lines down approximately, Tricario says, "I asked you the other  
15 day on the phone, what are you going to have" -- referring, you  
16 know, to what the taxi owner would produce on that particular  
17 day.

18 If you look, the more threatening statements are by  
19 the soldier, Salzano, when he actually refers to Danny Leo, the  
20 acting boss, when he says, "If you lie to me, I'm going to --  
21 I'm going to shoot you," to Danny. He also tells him he's  
22 going to mess with some of his business relationships with a  
23 guy named JT; he's going to take him in a wheelchair. These  
24 are very threatening encounters, in which this defendant, who -  
25 - you know, he's before you, you see him in court. You know,

1 he's quite an able fellow, at least, you know, on appearance.

2 He was brought around, and the victim understood him  
3 to be the muscle. He was there to provide that kind of  
4 intimidation. He had numerous contacts outside of just these.  
5 And the FBI made a decision that, after the second of these two  
6 meetings, that because of the escalating nature of the  
7 violence, they didn't want to risk having Charlie out there, at  
8 least, saying he's going to have people go and hurt the victim.

9 I think it's obvious that these are violent  
10 encounters. Although it's charged very quickly last night in  
11 this complaint in this manner, I expect the indictment will  
12 have at least Counts Two and Three from the indictment that was  
13 returned today, involving extortion and the collection of a  
14 loansharking debt.

15 Extortion is a crime of violence under 3140(2)(e)\*, I  
16 believe. This makes it a presumption case; it's with a twenty-  
17 year max, the extortion. And beyond all the presumption,  
18 beyond the facts of how threatening this is, there's a whole  
19 other sort of layer of menacing threat here, and that is that  
20 this is the muscle, this is the guy they send to intimidate the  
21 victim.

22 Charlie Salzano, the soldier, pled guilty, he's in  
23 jail. Danny Leo, the acting boss, was detained today for this  
24 conduct. It was his money. This man here, if he's out, knows  
25 the victim, knows where to find him, has found him on numerous

1 occasions, knows how to contact him. I would be very concerned  
2 that the acting boss now, while detained, would be sufficiently  
3 upset about being detained that he might use someone like this  
4 man here to be more than just muscle, but to help rid the  
5 Genovese Family of this problem and help him get rid of this  
6 victim.

7 THE COURT: I get the picture.

8 MR. SNYDER: Yes. We're concerned, Your Honor. And I  
9 think he is a threat, I think he's a safety hazard to the  
10 community. I think the presumption applies. They would have  
11 to rebut that. And I can answer any of the questions Your  
12 Honor has.

13 THE COURT: Well, it does appear to be a presumption  
14 case, Mr. Tween, so what are you proposing?

15 MR. TWEEN: Your Honor, I concede that this is a  
16 presumption case, but I would submit that this is a case where  
17 the presumption can be overcome. And I suggest that, as  
18 pretrial services has recommended, that Your Honor put together  
19 a package that can assure this defendant's appearance.

20 What Mr. Snyder calls "the history" here certainly  
21 goes way beyond the parameters of this complaint. And I  
22 understand that, for purposes of a bail hearing, he is within  
23 his rights to do that. But it seems to me that much of what he  
24 has just asserted is an effort at guilt by association and  
25 guilt by smear, frankly. And it --

1 THE COURT: Well, the tapes are sort of guilt by  
2 association, in that they're talking about "he's going to snap"  
3 and then -- I mean, it does make it appear to be an incredibly  
4 strong case, complete with FBI surveillance, so that there are  
5 not identity issues, even.

6 MR. TWEEN: I would not concede that, Your Honor.

7 But also, your point is right that -- of guilt by  
8 association; in that, if you parse out in these tapes what my  
9 client is alleged to have said, there's virtually nothing  
10 there. There is virtually nothing there. Virtually all of  
11 this is other people speaking.

12 It strains credibility, to me at least, to assert that  
13 this man is organized crime muscle when he is a man who works  
14 to support his family; he goes to work every single day. He's  
15 got a house, he's got two kids and a spouse. He has family  
16 here in the area, his wife has family in the area, his mother  
17 lives in the area. All of these people are prepared -- and we  
18 can discuss a package, Your Honor, as pretrial services -- but  
19 these are all people that he's got very close ties to, he  
20 maintains close ties to.

21 THE COURT: Well, that's what I'm -- that's what I'm  
22 trying to get you to tell me. What package, in terms of a  
23 bond, are you proposing, what kind of collateral?

24 MR. SNYDER: Your Honor, we're prepared to -- we're  
25 prepared to propose to agree with the recommendation of

1 pretrial services in the high bond, I would say guaranteed by  
2 my client's house, guaranteed by perhaps one of his brothers'  
3 residences. He's got three brothers that live in the area, all  
4 of them have residences. His wife has family in the area, all  
5 of whom have residences. I think that they would be prepared  
6 to -- some of them, at least, would be prepared to put up their  
7 houses as a testimony to their faith and their confidence in  
8 this man.

9           There is a point I want to raise because it's in the  
10 pretrial services report and it's something that should be  
11 discussed. My client has one prior conviction in 1990, for  
12 possession of a handgun. He was, at the time, I think twenty  
13 years old, twenty-one years old, approximately. This is  
14 seventeen years ago, Your Honor, that there was this  
15 conviction.

16           And there's a couple of points that bear mentioning,  
17 not the least of which, it strikes me as implausible at least  
18 for so-called "organized crime muscle" to have so skimpy a  
19 track record. But I don't want to dwell on that point, and  
20 rather address the point that, back then, at that age, he was  
21 released on bail and was out on bail for eighteen months, made  
22 every appearance during that time, was sentenced to a short  
23 term in New York City Jail; he did his term and has been out.

24           THE COURT: Okay. I've heard enough. I am going to  
25 fix conditions of bail, but they are going to be stringent

1 ones.

2 MR. SNYDER: Your Honor, if I may.

3 THE COURT: Hear me for a minute, Mr. Snyder --

4 MR. SNYDER: Yes, Your Honor.

5 THE COURT: -- and then I'll hear you.

6 What I plan to do is set a five-million-dollar bond to  
7 be cosigned by four financially responsible persons and be  
8 further secured by a million dollars cash or property, with the  
9 defendant's travel restricted to the Southern and Eastern  
10 Districts of New York. He's to surrender all travel documents  
11 and not seek new ones. He would be subject to strict pretrial  
12 services supervision and home incarceration, enforced through  
13 electronic monitoring. And all of the conditions would have to  
14 be met for his release.

15 Mr. Snyder, I interrupted you. You wanted to say  
16 something.

17 MR. SNYDER: I had just more in the way of argument,  
18 but I can let it rest.

19 THE COURT: I understand your concerns. I also  
20 understand the relative position of Mr. Tricario in the pecking  
21 order, which is not to minimize his role.

22 Mr. Tricario, I have no idea whether you can meet  
23 these conditions or not, but they are, as far as I'm concerned,  
24 the minimum that would reasonably assure both your presence in  
25 court and the safety of the community. But if you violate any

1 of these conditions -- and I'm going to add another one, which  
2 is that you are to have no contact, direct or indirect, with  
3 the victim; which means, not only are you not to contact the  
4 victim, you're not to send any emissaries to contact the  
5 victim.

6 If you violate any of the conditions of this bond,  
7 assuming that you're able to meet the financial and other  
8 conditions, there is not a judge in this courthouse who  
9 wouldn't delight in throwing you in jail until the trial of  
10 this case. And if there's any evidence that you've reached out  
11 in any way to the victim, that would most certainly be the  
12 result. Do you understand that, sir?

13 THE DEFENDANT: Yes.

14 THE COURT: And do you understand that if you meet  
15 these conditions and then fail to appear as required, you could  
16 be charged with the crime of bail-jumping; so that, even if  
17 this extortion case for some reason were to be dismissed, you  
18 could be prosecuted on that charge?

19 THE DEFENDANT: Yes.

20 THE COURT: We need a date for a preliminary hearing,  
21 Mr. Tween. Will you waive to the thirtieth day or do you want  
22 the tenth?

23 (Counsel and defendant confer.)

24 MR. TWEEN: Your Honor, we'll waive out to thirty  
25 days.



1 THE COURT: All right. Well, we'll set this down for  
2 June 29th, on consent.

3 Anything further concerning Mr. Tricario this evening?

4 MR. SNYDER: No, Your Honor. Thank you.

5 MR. TWEEN: No, Your Honor.

6 THE COURT: Have a good evening.

7 MR. SNYDER: Thank you.

8 MR. TWEEN: Thank you.

9 (Proceedings concluded.)

10 \*\*\*\*\*

11 CERTIFICATION

12 I certify that the foregoing is a correct transcript  
13 from the electronic sound recording of the proceedings in the  
14 above-entitled matter to the best of my knowledge and ability.

15  
16 

17

July 11, 2007

18 Coleen Rand, AAERT Cert. No. 341  
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